

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

PHILIP M. ROSS, Individually and d/b/a
Scientific Paranormal Investigative
Research Institute of Texas,

Plaintiff,

V.

HON. CHARLES A. STEPHENS, II, in his Official Capacity as Judge, County Court-at-Law No. 2, Comal County, Texas; and TONI MORTON, in her Official Capacity as Professional Guardian, Texas Department of Aging and Disability Services Guardianship,

Defendants.

CIVIL ACTION NO. SA-24-CA-1460-FB

ORDER ACCEPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Before the Court are the Report and Recommendation of United States Magistrate Judge (docket no. 10) granting Plaintiff's Motion for Leave to File Second Amended Original Complaint (docket no. 8) but recommending that this case be dismissed for lack of subject matter jurisdiction, along with Plaintiff's Amended Motion for Leave to File Second Amended Complaint (docket no. 14), Plaintiff's written objections (docket no. 17) and amended written objections (docket no. 18) to the Report and Recommendation, and Plaintiff's Motion for Leave to File Third Amended Complaint (docket no. 19).

Where no party has objected to a Magistrate Judge's Report and Recommendation, the Court need not conduct a de novo review of the Report and Recommendation. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court need only review the Report and Recommendation and determine whether it is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989).

On the other hand, any Report and Recommendation to which objection is made requires de novo review by the Court. Such a review means that the Court will examine the entire record, and will make an independent assessment of the law. The Court need not, however, conduct a de novo review when the objections are frivolous, conclusive, or general in nature. *Battle v. United States Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987).

The Court has thoroughly analyzed Plaintiff's submissions in light of the entire record. As required by Title 28 U.S.C. § 636(b)(1)(c), the Court has conducted an independent review of the entire record in this cause and has conducted a de novo review with respect to those matters raised by the objections. After careful consideration of the objections and the facts alleged in the proposed amended complaints, the Court concludes there is no subject matter jurisdiction over this case and therefore this case must be dismissed.

IT IS THEREFORE ORDERED that Plaintiffs' Amended Motion for Leave to File Second Amended Complaint (docket no. 14) and Plaintiff's Motion for Leave to File Third Amended Complaint (docket no. 19) are DISMISSED as MOOT.

IT IS FURTHER ORDERED that the Report and Recommendation of United States Magistrate Judge (docket no. 10) is ACCEPTED pursuant to 28 U.S.C. § 636(b)(1) such that this case is DISMISSED for lack of subject matter jurisdiction.

IT IS FINALLY ORDERED that remaining motions pending with the Court, if any, are Dismissed as Moot and this case is CLOSED.

It is so ORDERED.

SIGNED this 20th day of May, 2025.



FRED BIERY
UNITED STATES DISTRICT JUDGE